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ABSTRACT

This brief presents highlights from the recently enacted Education Amendments which include comprehensive higher education provisions, authorization for greatly increased funding, and limitations on court-ordered busing. The act also establishes within HEW a National Institute of Education, whose prime purpose is to find ways to make educational opportunity equal. The law includes a number of provisions regarding sex discrimination and minimum wage provisions. For example, coverage of the Equal Pay Act is extended, preschool employees are now under minimum wage and overtime and equal pay provisions, and no person, on the basis of sex, can be subjected to discrimination under any education program or activity receiving Federal financial assistance. (Author/MLF)

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EDUCATION ACT EXTENDS SEX DISCRIMINATION AND MINIMUM WAGE PROVISIONS

On June 23, 1972, President Nixon signed the Education Amendments of 1972. The act (Public Law 92-318, generally effective July 1, 1972) includes comprehensive higher education provisions, authorization for greatly increased funding, and limitations on court-ordered busing. It establishes with LW a National Institute of Education, whose prime purpose will be to find ways to make educational opportunity equal. In addition, Title IX-- Prohibition of Sex Discrimination includes a number of provisions of special interest to the Department of Labor and its Women's Bureau. These are highlighted below:

1. Section 906 (b)(1) extends coverage of the Equal Pay Act, which is part of the Fair Labor Standards Act (FLSA), to an estimated 15 million executive, administrative, and professional employees (including academic administrative personnel and teachers in elementary and secondary schools) and outside salespeople. According to the Labor Department, most of the employees for whom the provision will bring economic benefits are women. Assistant Secretary Richard J. Grunewald, who directs the Employment Standards Administration which administers the FLSA, has stated, "One of our important objectives is to eliminate discriminatory wage practices based upon sex." He also said that the Department will promptly issue legal interpretations of the Equal Pay Act as it applies to the newly covered occupations.

It should be noted that these employees are still exempt from the minimum wage and overtime provisions of the FLSA.

2. Section 906 (b)(2-3) brings preschool employees under the minimum wage and overtime as well as the equal pay provisions of the FLSA. Thus, employees of nursery schools, public and private kindergartens, and other preschool enterprises must now be paid at least $1.60 an hour, and receive not less than 1½ times their regular pay rates after 40 hours a week.

3. Section 901 provides, in part:

> No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. . . .

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Covered are public or private preschool, elementary, or secondary schools and institutions of vocational, professional, and higher education. Exempt are certain institutions controlled by religious organizations and schools for training individuals for the military services of the United States or the merchant marine.

With regard to admissions, the antidiscrimination provision applies only to institutions of vocational, professional, and graduate higher education and public institutions of undergraduate higher education, except that any public institution of undergraduate higher education that traditionally has had a policy of admitting only students of one sex is exempt. Private undergraduate schools of higher education are not covered.

It should be noted that an institution may be exempt from the provisions relating to admissions but still be subject to other prohibitions regarding sex discrimination.

These provisions apply 1 year from the date of enactment, except that schools in the process of transition from one-sex to coeducational under a plan approved by the Commissioner of Education have 6 years from the date of enactment or 7 years from the beginning of the process, whichever is later.

The act states that nothing in its language shall be interpreted to require any educational institution to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to receiving benefits of any federally supported program or activity. However, any hearings or proceedings under this title may take into account statistical evidence showing such an imbalance.

4. Section 902 provides for enforcement by the Federal departments empowered to extend financial assistance.

5. Section 907 allows institutions receiving Federal funds to maintain separate living quarters for men and women.

6. Section 906 amends Title IV--Desegregation of Public Education of the Civil Rights Act of 1964 to add "sex." Title IV had covered only race, color, religion, and national origin. Section 906 also adds "sex" to Title IX--Intervention and Procedure After Removal in Civil Rights Cases of the Civil Rights Act. Thus, the Attorney General is empowered to intervene, on behalf of the United States, in litigation already begun by others claiming denial of equal protection of the laws under the 14th Amendment on account of sex, in addition to race, color, religion, or national origin.

NOTE: Title VII--Equal Employment Opportunity of the Civil Rights Act of 1964 was amended earlier this year to bring employees of public and private educational institutions under its coverage; however, religious educational institutions are exempt with respect to the employment of individuals of a particular religion.

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